#### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/650,564	) Title:
	) Intra-Frequency Searching in the
Patent No. : 7,917,163	) Presence of Frequency Gaps
Inventor(s) : Messay Amerga	) }
Attorney Docket No.: 020673	) Filing Date : August 27, 2003
Group Art Unit: 2618	) Issue Date : March 29, 2011

### DECLARATION OF VENUGOPAL MENON

I, Venugopal Menon, declare as follows:

- 1. I am an employee of MaxVal Group, Inc. (hereinafter "MaxVal"), located at 2251 Grant Road, Suite B, Los Altos, CA 94024, which provides patent related services to Qualcomm Inc. (hereinafter "Qualcomm") located at 5775 Morehouse Drive, San Diego, CA 92121, the owner/assignee of the above referenced patent. MaxVal performs Patent Term Adjustment (hereinafter "PTA") verifications on behalf of Qualcomm. My responsibility, as a PTA Team Lead in MaxVal, is to perform PTA calculations before they are mailed out to Qualcomm.
- 2. I created a process and trained my team to follow such process to extract IFW and PTA data from Public PAIR in order to perform PTA verifications. The process steps included copying the table from the "Patent Term Adjustments" tab in the record of an application from Public PAIR and pasting it into an Excel spreadsheet (I named this tab on the Excel spreadsheet "PTO-PTA"). During the normal course of business within my duty to perform the above responsibility in calculating the PTA of the above referenced application, I cross-checked my calculations from the process against the values that appeared in the PTO-PTA tab. I emailed this Excel spreadsheet to Qualcomm upon completion of the verification exercise. The Excel spreadsheet that was used to compute PTA at the Notice of Allowance for the above captioned case is attached as Exhibit A.

Application No.: 10/650,564 Patent No.: 7.917,163 I believed that even though the PTO-PTA tab of the Excel spreadsheet may not have been a static screen capture of the "Patent Term Adjustments" tab from Public PAIR, the cells of the PTO-PTA sheet contained unaltered PTA data, such as that shown in sheets 4 and 5 of Exhibit A.

On November 30, 2010, a Notice of Allowance (hereinafter "NOA") for the above captioned application, which subsequently issued as the above-captioned patent (hereinafter the "'163 patent") was mailed to Qualcomm. The PTA page of the NOA letter is attached herewith as Exhibit B. The NOA published a PTA of 697 days. The delay values I used in calculating PTA for the above-captioned application were as follows:

- A delays 961 days;
- Non-overlapping USPTO Delays 961 days;
- Applicant Delays 264 days.

My calculation of 697 days of PTA (961 days of Office A-delay less 264 days of Applicant Delay) was based on the values as shown in Exhibit A and was in agreement with the USPTO's value as shown in the NOA (see Exhibit B)

On January 12, 2011, I emailed the results of the PTA verification to Qualcomm.

On March 29, 2011, the '163 patent issued with a PTA of 856 days. The USPTO's calculation was based on the following delay periods (taken from the PTA tab on Public PAIR after issuance):

- A Delays 961 days;
- B Delays 582 days;
- Overlapping delays between {A and B} or {A and C} 292 days;
- Non-overlapping USPTO Delays 1251 days;
- Applicant Delays 395 days.

However, my calculation yielded 987 days of PTA. The Applicant Delay used in my calculation was the same value as it was in the NOA case, viz, 264 days.

When I noticed the difference in the total Applicant Delay (and consequently, the PTA) arrived at by the USPTO and my team in MaxVal, I compared the PTO-PTA tab of

Application No.: 10/650,564 Patent No.: 7.917,163 the Excel spreadsheet that we mailed to the client in January 12, 2011 (Sheets 4 and 5 of

Exhibit A) against the PTA tab of the issued patent in Public PAIR and noticed the

discrepancy described below. A copy of the screen capture of the PTA tab from PAIR is

attached herewith as Exhibit C which shows a 131-day applicant delay entered in line 59

of the IFW (corresponding to the transaction "PETITION TO REVIVE APPLICATION -

GRANTED" dated 5/17/2010) that was missing in the PTA tab on PAIR at Allowance.

On May 2, 2011, I brought this discrepancy to the attention of the Qualcomm

attorney responsible for PTA.

3. Prior to the events described above, I personally had not seen another instance of a PTA

calculation where the USPTO inserted a delay period (pre-dating the NOA date) into the

record after accepting the payment of issue fees.

4. I declare further that all statements made herein of my own knowledge are true and that

all statements made on information and belief are believed to be true. These statements

were made with the knowledge that willful false statements and the like so made are

punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such

willful false statements may jeopardize the validity of this patent issued from the

application.

Signed:

Date: May 26, 2011

Venugopal Menon

Application No. : 10/650,564 Patent No. : 7,917,163 EXHIBIT A EXHIBIT A

# PTA CALCULATION FOR 10/650,564

Application No.	10/690,964	
Title	Intra-Frequency Searching In the Presence of Frequency Gaps	
Filing or 371(c) Date	8/27/2003	
NOA Date	11/30/2010	
3 Year out off date	8/27/2006	
A (PTO)	961	
A (Apolicant)	264	
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PTO calculated PTA	697	
Extension	697	
Potential extension beyond PTO-calculated PTA	9	

Extension calculated under 35 USC 154(b) in view of the Wyeth decision.

Terminal Disclaimer	

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#### Patent Term Adjustment

Filing or 371(c) Date: 8/27/2003	Overlapping Days Between (A and B) or (A and C)	Ŏ
issue Date of Patent: -	Non-Overlapping USPTO Delays:	961
A Delays 963	PTO Manual Adjustments	0
B Delays: 0	Applicant Delays:	264
C Delays: 0	Total PTA Adjustments:	697

Patent Term Adjustment History Dianation Of Calculations PTO(Days) APPL(Days) Number Oate Contents Description Start 85 2010-11-30 MAIL NOTICE OF ALLOWANCE 84 2010-11-23 ISSUE REVISION COMPLETED 83 DOCUMENT VERIFICATION 2010-11-23 NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED 82 2010-11-23 6 EXAMINER'S AMENDMENT COMMUNICATION 81 2010-11-18 80 2010-11-18 NOTICE OF ALLOWABILITY 78 2010-9-22 DATE FORWARDED TO EXAMINER 77 2010-9-21 RESPONSE AFTER NON-FINAL ACTION 2010-6-24 76 ELECTRONIC REVIEW 75 2010-6-24 EMAIL NOTIFICATION 74 2010-6-24 MAIL NON-FINAL REJECTION 73 NON-FINAL REJECTION 2010-6-21 72 2010-5-14 DATE FORWARDED TO EXAMINER ю RCE- AF PROCESSED 71 2010-3-5 70 2010-5-18 REQUEST FOR CONTINUED EXAMINATION (RCE) 235 46 69 2010-6-14 DISPOSAL FOR A RCE / CPA / R129 68 2010-6-4 EMAIL NOTIFICATION U. 2010-5-28 DATE FORWARDED TO EXAMINER 67 66 2010-6-2 MAIL NOTICE OF RESCINDED ABANDONMENT 65 2010-5-28 NOTICE OF RESCINDED ABANDONMENT IN TCS 64 2010-5-21 ELECTRONIC REVIEW 2010-5-21 EMAIL NOTIFICATION 63 62 2010-5-20 EMAIL NOTIFICATION (O PG-PUB NOTICE OF NEW OR REVISED PROJECTED PUBLICATION 0 61 2010-5-21 man 60 MAIL-PETITION TO REVIVE APPLICATION - GRANTED 2010-5-18 0 59 2010-5-17 PETITION TO REVIVE APPLICATION - GRANTED O 58 2010-3-5 PETITION ENTERED O Workflow - request for RCE - begin 57 2010-3-5 56 2010-1-6 EMAIL NOTIFICATION ю. MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE 0 53 2010-1-6 ACTION 54 2010-1-4 ABAND, FOR FAILURE TO RESPOND TO O. A. 53 2009-9-1 EMAIL NOTIFICATION 52 2009-9-1 MAIL ADVISORY ACTION (PTOL - 303) 51 2009-8-28 ADVISORY ACTION (PTOL-303) 50 2009-8-26 DATE FORWARDED TO EXAMINER a) 2009-8-25 AMENDMENT AFTER FINAL REJECTION 48 FLECTRONIC REVIEW 2000-6-25 lo. 47 EMAIL NOTIFICATION 2009-6-25 MAIL FINAL REJECTION (PTOL - 326) 46 2009-6-25 45 2009-6-22 FINAL REJECTION 2009-4-17 DATE FORWARDED TO EXAMINER 44 n 43 2009-3-5 RESPONSE AFTER NON-FINAL ACTION 42 2008-12-12 ELECTRONIC REVIEW 45 2006-12-12 EMAIL NOTIFICATION 40 2008-12-12 MAIL NON-FINAL REJECTION 39 2008-12-8 NON-FINAL REJECTION 37 2008-10-5 DATE FORWARDED TO EXAMINER 36 RESPONSE AFTER NON-FINAL ACTION 2008-8-27 101 35 2008-5-30 ELECTRONIC REVIEW 34 2008-5-29 EMAIL NOTIFICATION 33 2008-5-29 MAIL NON-FINAL REJECTION 32 2008-5-23 NON-FINAL REJECTION Ю 2008-4-16 DATE FORWARDED TO EXAMINER 3 30 2008-4-1 AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE 0 29 2008-4-16 DATE FORWARDED TO EXAMINER 28 2008-4-1 REQUEST FOR CONTINUED EXAMINATION (RCE) 29 22 27 2008-4-16 DISPOSAL FOR A RCE / CPA / R129 10 26 2008-4-1 REQUEST FOR EXTENSION OF TIME - GRANTED

WORKFLOW - REQUEST FOR RCE - BEGIN

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24	2007-12-5	ELECTRONIC REVIEW		0
23	2007-12-4	EMAIL NOTIFICATION		0
22	2007-12-3	MAIL FINAL REJECTION (PTOL - 326)		О
21	2907-11-26	FINAL REJECTION		0
20	2007-9-13	DATE FORWARDED TO EXAMINER		0
19	2007-9-11	RESPONSE AFTER NON-FINAL ACTION		0
18	2007-6-21	ELECTRONIC REVIEW		Ü
17	2007-6-20	EMAIL NOTIFICATION		0
16	2007-6-15	MAIL NON-FINAL REJECTION	961	0.5
15	2007-6-7	NON-FINAL REJECTION		0
14	2907-4-17	CASE DOCKETED TO EXAMINER IN GAU		0
13	2007-4-12	IFW TSS PROCESSING BY TECH CENTER COMPLETE		0
12	2007-4-11	CASE DOCKETED TO EXAMINER IN GAU		0
11	2006-12-12	Transfer inquiry to gau		Ū
10	2006-8-3	TRANSFER INQUIRY TO GAU		0
9	2004-1-26	TRANSFER INQUIRY TO GAU		0
8	2003-11-19	APPLICATION RETURN FROM OIPE		0
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6	2003-11-19	APPLICATION DISPATCHED FROM OIPE		0
ş	2003-11-19	APPLICATION IS NOW COMPLETE		0
4	2003-11-10	CASE CLASSIFIED BY OIPE		0
3	2003-11-10	CLEARED BY OIPE CSR		0
2	2003-10-14	IFW SCAN BAMP; PACR AUTO SECURITY REVIEW		Ü
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### **EXHIBIT B**



### United States Patent and Trademark Office

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#### Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)

(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 697 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 697 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

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Patent T	erm Adj	ustments		***************************************
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97	03-29- 2011	Patent Issue Date	: Used in PTA Calculation	\$
96	03-02- 2011	Export to Final Da	ta Captura	\$
95	02-25- 2011	Dispatch to FDC		\$
94	02-25- 2011	Application Is Con	sidered Ready for Issue	(
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80	11-18- 2010	Allowability Notice		į
78	09-22- 2010	Date Forwarded t	o Examiner	
77	09-21- 2010	Response after No	on-Final Action	Š
76	06-24- 2010	Electronic Review		\$
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73	03-05-	RCE- AF Processed		٥
70	05-18- 2010	Request for Continued Examination (RCE)	235	48
69	06-14- 2010	Disposal for a RCE / CPA / R129		8
68 -	06-04- 2010	Email Notification		8
67	05-28- 2010	Date Forwarded to Examiner		Ö
88	08-02- 2010	Mail Notice of Rescinded Abandonment		٥
65	05-28- 2010	Notice of Rescinded Abandonment in TCs		Ø
64	05-21- 2010	Electronic Review		0
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62	05-20- 2010	Email Notification		٥
61	05-21- 2010	PG-Pub Notice of new or Revised projected publication date		0
(60	05-18- 2010	Mail-Patition to Revive Application - Granted		0
.59	05-17- 2010	Petition to Revive Application - Granted	131	\$8
\$8	03-05- 2010	Petition Entered		8
\$7	03-05- 2010	Workflow - Request for RCE - Begin		<b>\$</b>
56	01-06- 2010	Email Notification		0
55	01-06- 2010	Mail Abandonment for Failure to Respond to Office Action		0
54	01-04- 2010	Aband, for Failure to Respond to O. A.		Ø
53	09-01- 2009	Email Notification		0
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51	08-28- 2009	Advisory Action (PTOL-303)		Ø
50	08-26- 2009	Date Forwarded to Examiner		0
49	00-25- 2009	Amendment after Final Rejection		0
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48	06-25- 2009	Mail Final Rejection (PTOL - 326)		Ö
48	06-22- 2009	Final Rejection		9
44	04-17- 2009	Date Forwarded to Examiner		0
43	03-05- 2009	Response after Non-Final Action		ø
42	12-12- 2008	Electronic Review		0
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37	10-05- 2008	Date Forwarded to Examiner		0
36	08-27- 2008	Response after Non-Final Action		0
38	05-30- 2008	Electronic Review		Ö
34	05-29- 2008	Email Notification		3
33	05-29- 2008	Mail Non-Final <b>Reje</b> ction		0
32	09-23- 2008	Non-Final Rejection		ø
31	04-16- 2008	Cate Forwarded to Examiner		8
30	04-01- 2008	Amendment Submitted/Entered with Filing of CPA/RCE		0
29	04-16- 2008	Date Forwarded to Exammer		0
28	04-01- 2068	Request for Continued Examination (RCE)	29	22
27	04-16- 2008	Disposal for a RCE / CPA / R129		ũ
26	04-01- 2008	Request for Extension of Time - Granted		Ø
28	04-01- 2008	Workflow - Request for RCE - Begin		S
24	12-05- 2007	Electronic Review		8
23	12-04- 2007	Email Notification		Ű
22	12-03- 2007	Mail Final Rejection (PTOL + 326)		Ø
21	11-26- 2007	Final Rejection		8
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18	06-15- 2007	Mail Non-Final Rejection	961	0.5
15	06-07- 2007	Non-Final Rejection		0
14	04-17- 2007	Case Docketed to Examiner in GAU		0
13	04-12- 2007	IFW TSS Processing by Tech Center Complete	<b>S</b> *2	· Ø
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10	08-03- 2006	Transfer Inquiry to GAU		8
9	01-26- 2004	Transfer Inquiry to GAU		· 😌 :
8	11-19- 2003	Application Return from CIPE		
7	11-19- 2003	Application Return TO OIPE		. 8
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\$	11-19- 2003	Application Is Now Complete		100
4	11-10- 2003	CASE CLASSIFIED BY OIPE		0
3	11-10- 2003	Cleared by OIPE CSR		6:
2	10-14-2003	IFW Scan & PACR Auto Security Review		***
\$	08-27- 2003	Indiai Exam Team no		. 8
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